

110TH CONGRESS
2D SESSION

H. R. 5229

To amend title 38, United States Code, to remove certain limitations on the transfer of entitlement to basic educational assistance under the Montgomery GI Bill, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2008

Mr. BARTLETT of Maryland (for himself, Mr. ISRAEL, Mr. BOOZMAN, Mrs. GILLIBRAND, Ms. SCHWARTZ, Mr. CARTER, Mr. RODRIGUEZ, Mr. LOBIONDO, Mr. BISHOP of Utah, Mr. MILLER of Florida, Mr. CUMMINGS, Mr. SCHIFF, Mr. GORDON of Tennessee, Mr. UDALL of Colorado, Mr. WILSON of South Carolina, Mr. ELLISON, Mr. KIRK, Mr. JOHNSON of Georgia, Mr. KUHLMANN of New York, Mr. WYNN, Mr. MEEK of Florida, Mr. BUTTERFIELD, Ms. FOXX, Ms. GIFFORDS, Ms. SHEAPORTER, Mr. CARNEY, Mr. LOEBSACK, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GILCHREST, Ms. CORRINE BROWN of Florida, Mr. JONES of North Carolina, Mr. HILL, Mrs. LOWEY, Ms. BERKLEY, Mr. NEUGEBAUER, Mr. WALZ of Minnesota, Mr. KING of Iowa, Mr. TIBERI, Mr. MCHENRY, Mr. WOLF, Mr. KINGSTON, Mr. PAUL, Mr. GOODE, and Mr. SAXTON) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 38, United States Code, to remove certain limitations on the transfer of entitlement to basic educational assistance under the Montgomery GI Bill, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Montgomery GI Bill
 5 Educational Assistance Transferability Act of 2008”.

6 **SEC. 2. REMOVAL OF CERTAIN LIMITATIONS ON TRANSFER**
 7 **OF ENTITLEMENT TO BASIC EDUCATIONAL**
 8 **ASSISTANCE.**

9 (a) IN GENERAL.—Section 3020 of title 38, United
 10 States Code, is amended—

11 (1) in the heading, by striking “: **members**
 12 **of the Armed Forces with critical military**
 13 **skills**”;

14 (2) in subsection (a)—

15 (A) by striking “with critical military skills
 16 and at such Secretary’s sole discretion”; and

17 (B) by striking “, subject to the limitation
 18 under subsection (d)”;

19 (3) in subsection (b)—

20 (A) in paragraph (1), by striking the semi-
 21 colon at the end and inserting “; and”;

22 (B) by striking paragraph (2); and

23 (C) by redesignating paragraph (3) as
 24 paragraph (2);

25 (4) by striking subsection (d); and

1 (5) by redesignating subsections (e) through
2 (m) as subsections (d) through (l), respectively.

3 (b) CONFORMING AMENDMENTS.—Such section is
4 further amended—

5 (1) in subsection (g)(2), as redesignated by sub-
6 section (a)(5) of this section, by striking “under sub-
7 section (e)(2)” and inserting “under subsection
8 (d)(2)”;

9 (2) in subsection (h)(2), as redesignated by
10 subsection (a)(5) of this section, by striking “under
11 subsection (b)(3)” and inserting “under subsection
12 (b)(2)”;

13 (3) in subsection (j), as redesignated by sub-
14 section (a)(5) of this section—

15 (A) by striking “under subsection (f)(2)”
16 and inserting “under subsection (e)(2)”;

17 (B) by striking “in subsection (h)(5)” and
18 inserting “in subsection (g)(5)”.

19 (c) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 30 of such title is amended
21 by amending the item relating to section 3020 to read as
22 follows:

“3020. Transfer of entitlement to basic educational assistance.”.

1 **SEC. 3. TRANSFER OF ENTITLEMENT TO EDUCATIONAL AS-**
 2 **SISTANCE UNDER THE RESERVE MONT-**
 3 **GOMERY GI BILL.**

4 (a) SELECTED RESERVE.—

5 (1) IN GENERAL.—Chapter 1606 of title 10,
 6 United States Code, is amended by adding at the
 7 end the following new section:

8 **“§ 16138. Transfer of entitlement to educational as-**
 9 **sistance**

10 “(a) IN GENERAL.—An individual described in sub-
 11 section (b) who is entitled to educational assistance under
 12 this chapter may elect to transfer to one or more of the
 13 dependents specified in subsection (c) a portion of such
 14 individual’s entitlement to such assistance. An individual
 15 transferring entitlement under this section shall submit
 16 written notice to the Secretary concerned not later than
 17 the expiration date of the period described in section
 18 16133 of this title that is applicable to such individual.

19 “(b) ELIGIBLE INDIVIDUALS.—An individual re-
 20 ferred to in subsection (a) is any member of the armed
 21 forces who, at the time of the approval by the Secretary
 22 concerned of the member’s request to transfer entitlement
 23 to basic educational assistance under this section—

24 “(1) has completed six years of service in the
 25 Selected Reserve; and

1 “(2) enters into an agreement to remain a
2 member of the Selected Reserve for a period of not
3 less than four years.

4 “(c) ELIGIBLE DEPENDENTS.—An individual may
5 transfer entitlement under this section as follows:

6 “(1) To the individual’s spouse.

7 “(2) To one or more of the individual’s chil-
8 dren.

9 “(3) To a combination of the individuals re-
10 ferred to in paragraphs (1) and (2).

11 “(d) DESIGNATION OF TRANSFEREE.—An individual
12 transferring entitlement under this section shall—

13 “(1) designate the dependent or dependents to
14 whom such entitlement is being transferred;

15 “(2) designate the number of months of such
16 entitlement to be transferred to each such depen-
17 ent; and

18 “(3) specify the period for which the transfer
19 shall be effective for each such dependent.

20 “(e) REVOCATION AND MODIFICATION.—An indi-
21 vidual transferring entitlement under this section may
22 modify or revoke at any time the transfer of any unused
23 portion of the entitlement so transferred. The modification
24 or revocation of the transfer of entitlement under this sub-
25 section shall be made by the submittal of written notice

1 of the action to both the Secretary concerned and the Sec-
2 retary of Veterans Affairs.

3 “(f) COMMENCEMENT OF USE.—If the dependent to
4 whom entitlement is transferred under this section is a
5 child, the use of the transferred entitlement may not com-
6 mence until the child—

7 “(1) completes the requirements of a secondary
8 school diploma (or equivalency certificate); or

9 “(2) attains 18 years of age.

10 “(g) TIME LIMITATION FOR USE OF ELIGIBILITY
11 AND ENTITLEMENT.—Notwithstanding section 16133 of
12 this title, and subject to subsection (d)(3), a dependent
13 to whom entitlement is transferred under this section may
14 use such entitlement until the later of—

15 “(1) the expiration date of a 15-year period be-
16 ginning on the date on which the individual who
17 transferred such entitlement to the dependent be-
18 comes entitled to such assistance; and

19 “(2) the date that is 10 years after the date the
20 individual who transferred such entitlement to the
21 dependent is separated from the Selected Reserve.

22 “(h) ADDITIONAL ADMINISTRATIVE MATTERS.—

23 “(1) USE OF ENTITLEMENT CHARGED TO
24 TRANSFERRING INDIVIDUAL.—The use of any enti-
25 tlement transferred under this section shall be

1 charged against the entitlement of the individual
2 making the transfer at the rate of one month for
3 each month of transferred entitlement that is used.

4 “(2) ENTITLEMENT TO ASSISTANCE.—Except
5 as provided under paragraphs (2) and (3) of sub-
6 section (d) and subsection (g), and subject to para-
7 graph (5), a dependent to whom entitlement is
8 transferred under this section is entitled to edu-
9 cational assistance under this chapter in the same
10 manner as the individual from whom entitlement
11 was transferred.

12 “(3) MONTHLY RATE OF EDUCATION ASSIST-
13 ANCE PAYABLE.—The monthly rate of educational
14 assistance payable to a dependent to whom entitle-
15 ment is transferred under this section shall be the
16 monthly amount payable under section 16131 of this
17 title to the individual making the transfer.

18 “(4) USE OF TRANSFERRED ENTITLEMENT NOT
19 AFFECTED BY DEATH OF TRANSFEROR.—The death
20 of an individual transferring entitlement under this
21 section shall not affect the use of the transferred en-
22 titlement by the dependent to whom entitlement is
23 transferred.

24 “(5) AGE LIMITATION.—Notwithstanding sub-
25 section (g) and section 16133 of this title, a child to

1 whom entitlement is transferred under this section
2 may not use any entitlement so transferred after at-
3 taining the age of 26 years.

4 “(6) TRANSFERABILITY TO NON-CHILD OF EN-
5 TITLEMENT FOR PURPOSE OF SECONDARY SCHOOL
6 DIPLOMA.—Except as provided in subsection (f), the
7 purposes for which a dependent to whom entitlement
8 is transferred under this section may use such enti-
9 tlement shall include the pursuit and completion of
10 the requirements of a secondary school diploma (or
11 equivalency certificate).

12 “(i) OVERPAYMENT.—In the event of an overpayment
13 of basic educational assistance with respect to a dependent
14 to whom entitlement is transferred under this section, the
15 dependent and the individual making the transfer shall be
16 jointly and severally liable to the United States for the
17 amount of the overpayment for purposes of section 3685
18 of title 38.

19 “(j) REGULATIONS.—The Secretaries concerned shall
20 prescribe regulations for purposes of this section.

21 “(k) SECRETARY CONCERNED DEFINED.—Notwith-
22 standing section 101(a)(9) of this title, in this section the
23 term ‘Secretary concerned’ means—

24 “(1) the Secretary of the Army with respect to
25 matters concerning the Army;

1 “(2) the Secretary of the Navy with respect to
2 matters concerning the Navy or the Marine Corps;

3 “(3) the Secretary of the Air Force with respect
4 to matters concerning the Air Force; and

5 “(4) the Secretary of Defense with respect to
6 matters concerning the Coast Guard, or the Sec-
7 retary of Homeland Security when it is not oper-
8 ating as a service in the Navy.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions at the beginning of such chapter is amended
11 by adding at the end the following new item:

“16138. Transfer of entitlement to educational assistance.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) TIME LIMITATION.—Section 16133(a) of
14 such title is amended by inserting “and section
15 16138 of this title” after “subsection (b)”.

16 (2) BIENNIAL REPORT.—Section 16137 of such
17 title is amended by inserting after the second sen-
18 tence the following: “Each such report shall also in-
19 clude the number of members of the Selected Re-
20 serve of the Ready Reserve of each armed force
21 transferring entitlement to educational assistance
22 under section 16138.”.

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